IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 133 of 2003

SANTGIRI
V/S
MUNICIPALITY, NOHAR

Mr. SP SHARMA, for the appellant / petitioner

Mr. DS RAJVI, for the respondent

Date of Order : 4.10.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant at length, and have perused the record.

Much stress was given by the learned counsel for the appellant on Ex. 1, 2 and 3 to contend that the well is old one, and the appellant is in old possession of the well say for the last about 100 years, as against which there is no evidence on the side of the defendants to show that the land is government land. It was also contended that the learned courts below have not properly interpreted the Ex. 2 and 3 Bahi Bhat, and has discarded it on irrelevant considerations, and from collective reading of Bahi Bhat, and Ex.1 it is clear that the well did exist and the land attached to the well is in possession of the appellant since generations.

I have considered the submissions, and have perused the judgments, so also the record very closely. In my view the documents Ex. 1, 2 and 3 do not sufficiently establish the appellant's old possession over the land in question. Even according to the plaintiff, the land is agricultural land on which he was cultivating vegetables, and admittedly no revenue record has been produced which obviously would have existed had the story propounded by the plaintiff had some trace of truth. So far Ex. 1 is concerned, a close look thereat shows that it purports to be last page of some order-sheet whereby the file was closed as no proceedings were required to be taken. This purports to be proceedings of the year 1922, and the appellant had obtained certified copy in 1991, but then for reasons best known the appellant has not obtained the certified copy of the entire order sheet or complete order to show as to what those proceedings were, and how they terminated in favour of the appellant. So far Bahi Bhat is concerned, I do not find any error in the findings of the learned courts below in this regard, more particularly in view of the fact, as noticed above, that no Khasra number of the land has been given, and no revenue record has been produced. It is required to be comprehended that all agricultural land do bear some Khasara number in the settlement, and every agricultural land has some revenue record may be in whomsoever name it may be.

Thus, for additional reasons as given above, I do not find any error in the findings of the learned courts below requiring any interference in this second appeal. The appeal is, therefore, dismissed summarily.

(N P GUPTA),J.

/Sushil/